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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/839,852	04/20/2001	Michael S. Lopke	10008057-1	3030

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EXAMINER

NAWAZ, ASAD M

ART UNIT	PAPER NUMBER
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2155

DATE MAILED: 07/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/839,852

Applicant(s)

LOPKE ET AL.

Examiner

Asad M. Nawaz

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

1. This communication is responsive to the amendment filed on April 28, 2005.
Claims 1-11 were amended. No other claims were amended, added, or cancelled.
Claims 1-25 are pending.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More specifically, the term "current time" renders the claims indefinite.

Claim Rejections - 35 USC § 102

4. (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
5. Claims 12-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Hericy et al (US PG PUB 2002/0083188) hereinafter referred to as Hericy.

As to claims 12, 17, 22, and 23, Hericy teaches a server to receive one or more requests for renderable documents from a client and serving the documents in response

Art Unit: 2155

to the requests, each served document being accompanied by a script and a time value.
(0025-0039)

The script being configured to execute in response to their corresponding documents being rendered on the client such that when executed, the individual scripts return the time value to the server and determining an average render time based on returned time values for the session.(0025-0039)

As to claim 21, Hericy teaches an architecture as recited in claim 17, further comprising a browser resident at the second computer to render the document. (0012)

As to claim 25, Hericy teaches a computer-readable media as recited in claim 23, further comprising computer-executable instructions that, when executed by one or more processing units, direct one or more computing devices to serve the session ID along with the time stamp and to return the session ID with the time stamp back to the server. (Fig 2; 0025-0039)

Claims 13-16, 18-20 and 24 have been addressed in the section below as they are related to similar preceding claims.

Claim Rejections - 35 USC § 103

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 103 that form the basis for the rejections under this section made in this Office action:

Art Unit: 2155

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-25 rejected under 35 U.S.C. 103(a) as being anticipated by Hericy et al (US PG PUB 2002/0083188) hereinafter referred to as Hericy further in view of Russell et al (2002/0099818).

As to claim 1, Hericy teaches a method comprising:

Receiving, from a client, a request for a document; (0024)

assigning a session ID to uniquely identify a session established with the client; (0025-0027)

associating the time stamp with the session ID; (0027, 0035)

serving the document along with a time stamp and an executable script to the client, the executable script being configured to return the time stamp when the document is rendered on the client; (Abstract; Fig 2; 0025-0039)

receiving the time stamp from the client at a current time; (0025-0039)

deriving a document render time from the time stamp and the current time, the document render time being indicative of a time period from when the request for the document is generated at the client to when the document is rendered at the client; (Fig 2; 0025-0039)

logging the document render time in association with the session ID that is associated with the time stamp from which the document render time is associated;(0025-0027; 0043)

and determining an average render time per user as a function of one or more logged document render times for a common session ID. (0025-0027)

However, Hericy does not explicitly indicate generating a time stamp based on a time when the server receives the request.

Russell et al teaches generating a time stamp based on a time when the server receives the request and the executable script returning the stamp back to the server. Russell teaches monitoring performance metrics on both client and server sides.(Figs 3-7; paragraphs 0019-0021 and 0024-0026)

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teachings of Russell into those of Hericy to make the system more robustness. Collection and calculations of performance metrics from multiple viewpoints would allow a network administrators/engineers to develop methods for overcoming potential bottlenecks in the network.

Claims 7-9, and 11 are essentially the method for the claim above and recite similar limitations. Therefore, these claims are rejected under similar rationale.

As to claim 2, Hericy teaches a method as recited in claim 1, wherein the document comprises a web page. (0003)

Claims 13 and 18 are essentially the server system and architecture for the claim above and are thus rejected under similar rationale.

As to claim 3, Hericy teaches a method as recited in claim 1, wherein the deriving comprises computing a time period from the time stamp and a current time, the time period representing the document render time. (Fig 2; 0025-0039)

Claims 9, 14, 19, 20, and 24 are essentially the method, server system, architecture, and computer readable media for the claim above and are thus rejected under similar rationale.

As to claim 4, Heiricy teaches a method as recited in claim 1, wherein multiple document render times for a given session ID are logged, and the determining further comprises computing an average render time per user by averaging the document render times for the common session ID. (0005; 0025-0027)

Claims 10 and 15 are essentially the server system and method for the claim above and are thus rejected under similar rationale.

As to claim 5, Hericy teaches a method as recited in claim 1, further comprising sending the session ID together with the time stamp to the client and receiving the session ID and the time stamp back from the client upon execution of the script. (Abstract; Fig 2; 0025-0039)

Claim 16 is essentially the server system for the claim above and is thus rejected under similar rationale.

As to claim 6, Hericy teaches a method as recited in claim 1, further comprising logging the average render time. (0013; 0027)

Response to Arguments

8. Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

9. Applicant's arguments filed have been fully considered but they are not persuasive.

10. Applicant argues in substance that Hericy does not teach a time stamp being served by the server.

11. In response, Hericy teaches a time value being served by a server. The examiner broadly interprets the time value that is being served by a server. More specifically, the time value can be the timestamp sent with each TCP(UDP)/IP packet in a transmission. The claims as presented recite the time value without always referring to the preceeding time value. For example, in claim 1, the claims recite "generating a time stamp..." and then go on to state "serving the document along with A time stamp..". Similar types of limitations are present in numerous claims. Furthermore, not all claims require the time value to be a time stamp.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asad M. Nawaz whose telephone number is (571) 272-3988. The examiner can normally be reached on M-F 8-4:30.

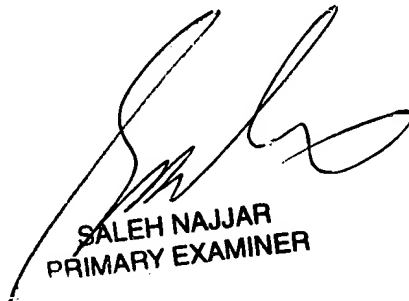
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2155

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



AMN



SALEH NAJJAR
PRIMARY EXAMINER